**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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| Appl. No. : | 10/645,099 |
| | Confirmation No. : 7276 |
| Applicant : | Jeff S. Eder |
| Filed : | August 21, 2003 |
| Art Unit : | 3692 |
| Examiner : | Susan Meinecke Diaz |
| Docket No. : | AR - 55 |

Petition to suspend prosecution for cause

In accordance with the provisions of 37 CFR 1.103, the Assignee requests a suspension of action by the Office with respect to the instant application for cause. The cause for the request for a suspension of prosecution is the U.S.P.T.O.'s apparent failure to provide an Examiner (and/or an organization) with the level of skill in the relevant arts and training required to examine the instant patent application in accordance with the prevailing statutes and precedents.

The suspension of prosecution will give the Assignee of the instant application the time to prepare a petition to the Commissioner. The petition will request the provision of one or more Examiners with the requisite level of training in the relevant arts and law to review the instant application and other Asset Reliance applications. The petition will also request the rescission of a substantial number of prima facie invalid patents.

It is well established that patent application examination needs to be completed from the perspective of an individual with average or ordinary skill in the art. For example, claim interpretation which is the starting point for any patent examination is supposed to be completed "in light of the specification as it would be interpreted by one of ordinary skill in the art." (*In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364, 70 USPQ2d 1827 Fed. Cir. 2004*, underline added). A review for compliance with the 35 USC 103 conditions for patentability requires a determination as to whether or not the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains (underline added). As is well known, anticipation is the 'epitome of obviousness' (*In re Kalm, 378 F.2d 959, 962 CCPA 1967*). It is also well known that a review for compliance with the 35 USC 112 conditions for patentability requires a determination as to whether or not the specification contains a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same (underline added).

The person of ordinary skill in the art is a hypothetical person who is presumed to have known the relevant art at the time of the invention. (*In re GPAC, 57 F.3d 1573, 1579, 35 USPQ2d 1116, 1121* (Fed. Cir. 1995); *Custom Accessories, Inc. v. Jeffrey-Allan Industries, Inc., 807 F.2d 955, 962, 1 USPQ2d 1196, 1201* (Fed. Cir. 1986); *Environmental Designs, Ltd. V. Union Oil Co., 713 F.2d 693, 696, 218 USPQ 865, 868* (Fed. Cir. 1983). It is also well established that the "hypothetical 'person having ordinary skill in the art'...would, of necessity have the capability of understanding the scientific and engineering principles applicable to the pertinent art" *Ex parte Hiyamizu, 10 USPQ2d 1393, 1394* (Bd. Pat. App. & Inter. 1988).

Evidence that the Examiner and organization reviewing the instant application do not appear to have to an average or ordinary level of skill in the art includes:

a) the allowance and issue of a number of patents to various other companies that are prima facie invalid for anticipation and/or obviousness when relevant prior art that was well known to those of average skill in the art at the time of invention is considered;

b) the allowance and issue of a number of patents to various other companies that do not appear to meet the written description requirement for patentability; and

c) the routine reliance on prior art that is not relevant to pending claims in Asset Reliance applications under the broadest reasonable interpretation of the claims as the basis for rejections for anticipation and/or obviousness.

Attachment A provides several general examples and specific examples related to the instant application.

Evidence that the Examiner and organization do not appear to follow the relevant statutes and precedents during the examination of patent applications includes the fact that Examiner's with an apparently well documented lack of average or ordinary skill in the relevant arts are routinely allowed to: author and/or sign patent application rejections for written description under 35 USC 112, interpret claims and author and/or sign patent application rejections for non statutory subject matter under 35 USC 101 based on said interpretations, author and/or sign patent application rejections for anticipation under 35 USC 102 and obviousness under 35 USC 103 and approve patents for allowance and issue. Other evidence includes:

a) the fact that patent application "examinations" are routinely completed without giving consideration to material incorporated by reference in accordance with 37 CFR 1.57;

b) the fact that patent applications are routinely rejected on the basis of conclusory statements and irrelevant prior art in place of the required substantial evidence (see APA);

c) the fact that patent applications are routinely rejected for alleged written description deficiencies on the basis of conclusory statements in place of the required preponderance of evidence;

d) the fact that patent applications are not examined in priority date order as required by 37 CFR 1.102; and

e) the fact that restriction requirements are imposed unilaterally at the time of final rejection in apparent violation of 37 CFR 1.142.

Attachment B provides specific examples related to the instant application and other Asset Reliance applications.

The Assignee is unclear as to what criteria is actually being used to determine patentability; however, it is clear that the problems outlined above produce arbitrary and capricious results, for example:

> The development of optimal promotional offers is currently rejected as being obvious in an Asset Reliance application with priority to 2000 while it was allowed in an application with a filing date in 2004.
>
> The Examiner for the instant application rejected claims for the measurement and management of supply chain risk in an Asset Reliance application with priority to 1999 and allowed claims for the management of supply chain risk in an application with a filing date in 2000.
>
> Multi criteria optimization of value and risk was rejected as being obvious in an Asset Reliance application with a filing date in 2000 while it was allowed by the same Examiner in an application with a filing date in 2002.

These arbitrary and capricious results and the related waste of time and resources will only continue until the U.S.P.T.O. provides one or more Examiners with the requisite level of training in the relevant arts and the law to review the instant application and the other pending Asset Reliance applications.

Respectfully submitted,

Asset Trust, Inc.

/B.J. Bennett/

B.J. Bennett, President

Date: June 30, 2010

Attachment A

A. General examples of prima facie invalid patents include:

1) Patent 6,671,673 appears to be invalid for failing to consider U.S. Patent 5,819,237;
2) Patent 6,732,095 appears to be invalid for failing to consider U.S. Patent Application 2004/0088239;
3) Patent 7,020,494 appears to be invalid for failing to consider "Improving Level of Service for Mobile Users Using Context Awareness", Proceedings of the 18th IEEE Symposium on Reliable Distribution Systems, Lausanne, Switzerland, Oct. 19-22, 1999 (hereinafter Couderc).
4) Patent 7,039,608 appears to be invalid for failing to consider U.S. Patent 5,812,988;
5) Patent 7,283,846 appears to be invalid for failing to consider Couderc;
6) Patent 7,536,332 appears to be invalid for failing to consider the 60 year old Capital Asset Pricing Model and "Long term dependence in stock returns", January 1, 1996, Boston College; and
7) Patent 7,653,449 and patent 7,676,490 appear to be invalid for failing to consider U.S. Patent 6,088,678.

Examples of prima facie invalid patents related to the instant application include:

1) Patent 7,092,918 and patent 7,130,811 appear to be invalid for failing to consider prior art well known to those of average skill in the art including demand elasticity curves (see Wealth of Nations by Adam Smith, 1776 and Political Economy by David Ricardo 1813), activity based costing (see Balanced Scorecard by Robert Kaplan 1996) and U.S. Patent 5,615,109.

B. General examples of patents with an apparently inadequate written description include:

1) Patent 6,249,768,
2) Patent 6,411,936,
3) Patent 6,671,673, and
4) Patent 7,333,950

C. General examples of reliance on prior art that is not relevant to pending claims in Asset Reliance applications include:

1) A reference describing the use of the value at risk metric for measuring the risk of securities in a portfolio was used as the primary reference to reject an Asset Reliance application with claims for using simulation of detailed, segment of value models to measure and manage supply chain risk (and the risk of other elements of value). The same reference was not considered relevant to two allowed applications that use value at risk techniques for measuring and managing supply chain risk; and
2) A patent for using historical data to determine expected project cost and completion risk (6,088,678) was used as the sole basis for rejecting an invention for optimizing the impact of a project on the future financial performance of an organization. U.S. Patent 6,088,678 was not cited during the prosecution of allowed patent applications for using historical data to determine expected project cost and completion risk.

Attachment B

a) Evidence that the Examiner and Office do not appear to follow the relevant statutes and precedents during the examination of patent applications includes the examples cited in Schedule A. Further evidence can be found in the instant application where claims for the development of price premiums that optimize cash flow and real option value were rejected for being non statutory matter while claims were allowed in later filed patent applications for identifying prices that optimize profitability;

b) Evidence that patent application "examinations" are routinely completed without giving consideration to material incorporated by reference in accordance with 37 CFR 1.57 can be found by examining the prosecution history of application 09/688,983 and application 11/167,685;

c) Evidence that patent applications are routinely rejected on the basis of conclusory statements and irrelevant prior art in place of the required substantial evidence (see APA) can be found by examining the prosecution history of the instant application and any other Asset Reliance application that is currently rejected;

d) Evidence that patent applications are routinely rejected for alleged written description deficiencies on the basis of conclusory statements in place of the required preponderance of evidence can be found by examining the prosecution history of application 09/761,670, 09/688,983 and application 10/743,417;

e) Evidence that patent applications are not examined in priority date order as required by 37 CFR 1.102 can be found by examining the prosecution history of applications reviewed by the Examiners who have authored Office Actions for Asset Reliance applications (specific examples are available upon request); and

f) Evidence that restriction requirements are being unilaterally imposed at the time of final rejection can be found by examining the prosecution history of application 11/167,685 and application 11/360,087.